

practice among the states; that is, a CPA's practice privileges would be valid and portable across all state jurisdictions beyond that of the CPA's resident state.⁸⁷

According to NASBA, to date twenty-two states have passed mobility legislation. Twelve other states currently have mobility legislation introduced and other bills are anticipated in the 2008 legislative session. Almost every state is now discussing or considering mobility, and a number of other state boards of accountancy have voted to support and move forward with mobility.

The Committee considered testimony and commentary on the importance to auditing firms' multi-state practices of the adoption of the UAA's mobility provisions.⁸⁸ A NASBA representative testified, "In order for our capital market system to continue to prosper and grow, NASBA recognized the need to ensure that an efficient, effective mobility system is in place that will allow CPAs and their firms, as professional service providers, to serve the needs of American businesses, where ever they are located."⁸⁹

The Committee believes that, given the multi-state operations of many public companies and the multi-state practices of many auditing firms, practice mobility will foster a more efficient operation of the capital markets. The Committee recommends the following mechanism to encourage the states to adopt the UAA's mobility provisions: If states have failed to adopt the mobility provisions of the UAA by December 31, 2010, Congress should pass a federal provision requiring the adoption of these provisions.

⁸⁷ See Record of Proceedings (Dec. 3, 2007) (Questions for the Record of David A. Costello, President and Chief Executive Officer, National Association of State Board of Accountancy, 1 (Feb. 6, 2008)), available at <http://www.treas.gov/offices/domestic-finance/acap/QFRs-12-3-2007.pdf> ("As the global business community continues to expand, CPAs will be required to practice beyond the state in which they reside. Inefficiencies are created when those individuals are required to complete paperwork and submit a fee for every state in which they perform professional services.").

⁸⁸ See, e.g., Amper, Politziner and Mattia, P.C., Comment Letter Regarding Discussion Outline 2 (Nov. 14, 2007) available at http://comments.treas.gov/_files/AmperPolitzinerMattia.pdf (noting that "[t]he ease of performing audits in any state by a valid CPA * * * without requiring to be licensed by each state would be beneficial."); Record of Proceedings (Dec. 3, 2007) (Written Submission of Dennis Nally, Chairman and Senior Partner, PricewaterhouseCoopers LLP, 5) (Dec. 3, 2008), available at <http://www.treas.gov/offices/domestic-finance/acap/submissions/12032007/Nally120307.pdf> (noting that a number of states are cooperating and working towards adopting uniform mobility requirements); Record of Proceedings (Dec. 3, 2007) (Written Submission of James S. Turley, Chairman and Chief Executive Officer, Ernst & Young LLP, 5), available at <http://www.treas.gov/offices/domestic-finance/acap/submissions/12032007/Turley120307.pdf> ("The Treasury Committee should suggest that the states eliminate barriers to interstate practice by universal adoption of the mobility provisions of the Uniform Accountancy Act.").

⁸⁹ Record of Proceedings (Dec. 3, 2007) (Written Submission of David A. Costello, President and Chief Executive Officer, National Association of State Board of Accountancy, 6), available at <http://www.treas.gov/offices/domestic-finance/acap/submissions/12032007/Costello120307.pdf>.

The Committee recognizes that some state legislatures meet biannually, and for such legislatures this deadline poses a challenge. However, such a deadline should be attainable and will encourage such legislatures to place this issue high on their agenda. The Committee also recommends that the states participate in NASBA's Accountancy Licensee Database (ALD) as a mechanism to assist in maintaining appropriate oversight of CPAs throughout the country regardless of where they practice and that appropriate authorities interpret federal and state privacy regulations to facilitate implementation of the ALD.

(b) Require regular and formal roundtable meetings of regulators and other governmental enforcement bodies in a cooperative effort to improve regulatory effectiveness and reduce the incidence of duplicative and potentially inconsistent enforcement regimes.

Under the federal securities laws, the SEC has enforcement authority over public company auditing firms and oversight authority over the PCAOB under the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley). Sarbanes-Oxley provides the PCAOB with registration, reporting, inspection, standard-setting, and enforcement authority over public company auditing firms.⁹⁰ In addition, the fifty-five boards of accountancy license, regulate, and enforce state accountancy laws pertaining to certified public accountants and their firms. In addition, the Department of Justice (DOJ) and state attorneys general can bring enforcement actions against auditing firms and their employees.

The Committee considered testimony from auditing firms on the duplicative and sometimes inconsistent federal and state oversight of the profession.⁹¹ The Committee does recognize that both federal and state regulators have made attempts to coordinate better their enforcement activities.⁹² One

⁹⁰ Sarbanes-Oxley Act of 2002, 15 U.S.C. §§ 7211–7219.

⁹¹ See, e.g., Record of Proceedings (Dec. 3, 2007) (Written Submission of Dennis Nally, Chairman and Senior Partner, PricewaterhouseCoopers LLP, 5), available at <http://www.treas.gov/offices/domestic-finance/acap/submissions/12032007/Nally120307.pdf>; Record of Proceedings (Feb. 4, 2008) (Written Submission of Edward E. Nusbaum, Chief Executive Officer, Grant Thornton LLP, and Chairman, Grant Thornton International Board of Governors, 7), available at <http://www.treas.gov/offices/domestic-finance/acap/submissions/02042008/Nusbaum020408.pdf>; Record of Proceedings (Feb. 4, 2008) (Questions for the Record of Barry Salzberg, Chief Executive Officer, Deloitte LLP, App. A 4 (Mar. 31, 2008)), available at <http://www.treas.gov/offices/domestic-finance/acap/ agendas/QFRs-2-4-08.pdf> (criticizing duplicative auditing firm investigations by states with no nexus to alleged conduct).

⁹² See, e.g., Record of Proceedings (Dec. 3, 2007) (Oral Remarks of David A. Costello, President and Chief Executive Officer, National Association of State Board of Accountancy, 98), available at <http://www.treas.gov/offices/domestic-finance/acap/agendas/minutes-12-3-07.pdf> (noting that "[NASBA] has been working with the PCAOB very closely coordinating efforts, trying to diminish as much as possible the redundancy in enforcement") Record of Proceedings (Dec. 3, 2007) (Written Submission of David A. Costello, President and

witness suggested the possible formation of a commission to help improve regulatory effectiveness.⁹³ Another witness urged state and federal regulatory cooperation to ensure harmonized regulation and licensure.⁹⁴

The Committee recommends mandating regular and formal roundtables of the PCAOB, the SEC, the DOJ, the state boards of accountancy, and the state attorneys general, to periodically review the overall enforcement regimes applicable to the public company auditing profession. These roundtables also should focus on regulatory coordination, improvement, and consistent approaches to enforcement to minimize duplicative efforts. Because of the difficulty and cost of bringing together many different state agencies on a regular basis, the Committee recommends that NASBA assist states by taking a leadership role in coordinating their responsibilities and interests.

(c) Urge the states to create greater financial and operational independence of their state boards of accountancy.

The Committee is concerned about the financial and operational independence of state boards of accountancy from outside influences, such as other state agencies, and the possible effect on the regulation and oversight of the accounting profession. A number of state boards are under-funded⁹⁵ and lack the wherewithal to incur the cost of investigations leading to enforcement. In addition, some state boards fall under the centralized administrative "umbrella" of other state agencies and lack control of financial resources and/or operational independence necessary to carry out their mandate of public protection.⁹⁶ In some

Chief Executive Officer, National Association of State Board of Accountancy, 6), available at <http://www.treas.gov/offices/domestic-finance/acap/submissions/12032007/Costello120307.pdf> (stating that NASBA is assisting state boards in enforcement cases involving multi-state activities).

⁹³ Record of Proceedings (Feb. 4, 2008) (Written Submission of Edward E. Nusbaum, Chief Executive Officer, Grant Thornton LLP, and Chairman, Grant Thornton International Board of Governors, 7), available at <http://www.treas.gov/offices/domestic-finance/acap/submissions/02042008/Nusbaum020408.pdf> (noting that, "it would be useful to evaluate the possibility of an interstate commission for the whole of the audit profession. Such a commission would bring together state licensing authorities, the PCAOB, and appropriate professional organizations. It would be the means to rationalize existing disparities in licensing qualifications, continuing education requirements and peer review for non-public company audit practices. It would also enable enforcement of common regulations and license discipline across state and federal jurisdictions.").

⁹⁴ Record of Proceedings (Dec. 3, 2007) (Written Submission of Dennis Nally, Chairman and Senior Partner, PricewaterhouseCoopers LLP, 5), available at <http://www.treas.gov/offices/domestic-finance/acap/submissions/12032007/Nally120307.pdf>.

⁹⁵ National Association of State Boards of Accountancy, Submission in Connection with the December 3, 2007 Meeting of the Advisory Committee on the Auditing Profession (Jan. 2008) (documenting the wide spectrum of funding for individual state boards of accountancy and noting the number of full-time staff per state boards of accountancy office).

⁹⁶ Statement of Ronald J. Rotaru, Executive Director, Accountancy Board of Ohio, before Ohio